

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GARY P. COTE

MAILED

JAN 16 2004

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Application No. 09/899,029

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on December 30, 2003. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

On June 5, 2003, appellant filed an amendment (Paper No. 12). On July 1, 2003, the examiner has indicated in an advisory action (Paper No. 14) that the amendment filed June 5, 2003, would be entered. A review of the file reveals that the amendment was not physically entered. Appropriate correction is required.

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Also, on July 10, 2003, the examiner filed an examiner's answer (Paper No. 15). There is no clear indication that an appeal conference was held because the examiner's answer contains only the typed initials of the conferees. No signature or initialing by the conferees is present. The Manual of Patent Examining Procedures (MPEP) § 1208 states:

On the examiner's answer, below the primary examiner's signature, the word "Conferees:" should be included, followed by the typed or printed names of the other two appeal conference participants. These two appeal conference participants must place their initials next to their name. This will make the record clear that an appeal conference has been held.

Upon receipt of the appeal case by the Board of Patent Appeals and Interferences (Board), the Board should review the application prior to assigning an appeal number to determine whether an appeal conference has been held.

Accordingly, it is

ORDERED that this application be returned to the examiner for: 1) action on the above noted deficiency in the examiner's answer; 2) physical entry of the amendment filed June 5, 2003; and 3) for such further action as may be appropriate.

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It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of this appeal (i.e. abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

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